

NOTE: This document serves as a model Client Service Contract ONLY and is intended to assist agencies with examples of contract language. Agency contract managers are responsible for ensuring contract language meets their agency needs.

CONTRACT NO.

**CLIENT SERVICE CONTRACT
BETWEEN
STATE OF WASHINGTON**

AND

This Contract is made and entered into by and between the state of Washington, , hereinafter referred to as the "DEPARTMENT", and the below named firm, hereinafter referred to as "CONTRACTOR."

Contractor Name

Address

City, State, Zip-Code

Phone

Fax

E-mail

Washington State UBI Number

Federal ID Number

PURPOSE

The purpose of this contract is to:

SCOPE OF WORK

- A. Exhibit A, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.
- B. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: As included in the AGENCY'S Request for Proposals No. [REDACTED], attached as Exhibit B, and the CONTRACTOR'S proposal dated [REDACTED], attached as Exhibit C.

- C. The CONTRACTOR shall produce the following written reports or other written documents (deliverables) by the dates indicated below:

All written reports required under this contract must be delivered to [REDACTED], the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

Subject to other contract provisions, the Period of Performance under this contract will be from [REDACTED] through [REDACTED].

COMPENSATION/ PAYMENT

DEPARTMENT shall pay an amount not to exceed [REDACTED] (\$ [REDACTED]) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

NOTES:

- 1) *List detail of compensation to be paid, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc. or reference documents that specify CONTRACTOR's compensation and payment, e.g., CONTRACTOR's compensation for services rendered shall be based on the schedule set forth in Exhibit B, Fees and Expenses.*
- 2) *Identify federal and state dollar amounts when relevant reporting requirements apply.*

EXPENSES

NOTE: *Expenses are optional. Do not include Expenses paragraph below if expenses are not allowable. If allowable, include only expenses that are appropriate for the contract.*

CONTRACTOR shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by the DEPARTMENT as reimbursable. The maximum amount to be paid to the CONTRACTOR for authorized expenses shall not exceed \$ [REDACTED], which amount is included in the contract total above Paragraph A, "Amount of Compensation". Such expenses may include: airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. CONTRACTOR shall receive compensation for travel expenses at current state travel reimbursement rates. To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

BILLING PROCEDURES

NOTE: *Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the contract, payment at conclusion of the contract, etc.*

DEPARTMENT will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the contract manager not more often than monthly. The invoices shall describe and document, to the DEPARTMENT'S satisfaction, the work performed, the progress of the project, and fees.

NOTE: *Add this language if expenses are allowed. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expense exceeding \$50.00 in order to receive reimbursement.*

Payment shall be considered timely if made by the DEPARTMENT within thirty (30) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The DEPARTMENT may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the DEPARTMENT.

The DEPARTMENT shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.

DUPLICATION OF BILLED COSTS: The CONTRACTOR shall not bill the DEPARTMENT for services performed under this contract, and the DEPARTMENT shall not pay the CONTRACTOR, if the CONTRACTOR is entitled to payment or has been or will be paid by any other source, including grants, for that service.

DISALLOWED COSTS: The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

NOTE: *Optional Provision - The DEPARTMENT shall withhold ten percent (10%) from each payment until acceptance by the DEPARTMENT of the final report (or completion of the project, etc.)*

Optional Provision - The CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

Contract Manager for CONTRACTOR is:	Contract Manager for DEPARTMENT is:
Contract Mgr Name <input type="text"/>	Contract Mgr Name <input type="text"/>
Contractor Name <input type="text"/>	Department Name <input type="text"/>
Address <input type="text"/>	Address <input type="text"/>
City, State Zip Code <input type="text"/>	City, State Zip Code <input type="text"/>
Phone: (<input type="text"/>) <input type="text"/> Fax: (<input type="text"/>) <input type="text"/>	Phone: (<input type="text"/>) <input type="text"/> Fax: (<input type="text"/>) <input type="text"/>
E-mail address: <input type="text"/>	E-mail address: <input type="text"/>

INSURANCE

The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor or agents of either, while performing under the terms of this contract.

The insurance required shall be issued by an insurance company(s) authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees, as additional insureds under the insurance policy(s). All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give DEPARTMENT 30-days advance notice of any insurance cancellation.

CONTRACTOR shall submit to DEPARTMENT within 15-days of the contract effective date, a certificate of insurance, which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

The CONTRACTOR shall provide insurance coverage that shall be maintained in full force and effect during the term of this contract, as follows:

Commercial General Liability Insurance Policy

Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Automobile Liability

In the event that services delivered pursuant to this contract involve the use of vehicles, owned or operated by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single
Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance

The CONTRACTOR shall maintain Professional Liability or Errors and Omissions Insurance. The CONTRACTOR shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all program activities by the CONTRACTOR and licensed staff employed or under contract to the CONTRACTOR. The state of Washington, its agents and employees need *not* be named as additional insureds under this policy.

The required insurance shall be issued by an insurance company(s) authorized to do business within the state of Washington, and except for Professional Liability or Errors and Omissions Insurance, shall name the state of Washington, its agents and employees as additional insureds under the insurance policy(s). All policies shall be primary to any other valid and collectable insurance. The CONTRACTOR shall instruct the insurers to give the DEPARTMENT 30-days advance notice of any insurance cancellation.

NOTE: *The insurance provisions may be waived or modified to fit the specific needs of the DEPARTMENT and the CONTRACTOR. It is very important to consult with agency staff familiar with insurance requirements when deciding insurance language to be included in contracts.*

ASSURANCES

DEPARTMENT and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations;
- Special Terms and Conditions as contained in this basic contract instrument;
- Exhibit A – General Terms and Conditions;
- Exhibit B – Contractor's Proposal;
- Exhibit C – Procurement No. [REDACTED]; and
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the DEPARTMENT'S authorized representative and shall not be binding until so approved. The contract may be altered, amended or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of [] pages and [] attachments, is executed by the persons signing below who warrant that they have the authority to execute the contract.

[CONTRACTOR'S NAME]**[DEPARTMENT NAME]**_____
Signature_____
Signature_____
Title_____
Date_____
Title_____
Date**APPROVED AS TO FORM:**_____
Assistant Attorney General_____
Date

- NOTES:**
- 1. The signature blocks on the contract must not appear on a page by themselves. Some of the text of the contract should be included at the top of the page.*
 - 2. Approval as to form is not required on every contract, once the contract format has been approved by the Attorney General's Office.*

EXHIBIT A
GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meanings set forth below:

- (a) "**CLIENT**" shall mean an individual receiving services under this contract.
- (b) "**COGNIZANT STATE AGENCY**" shall mean the state agency from which the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency that contributes the largest portion of federal financial assistance to the sub-recipient.
- (c) "**CONTRACTOR**" shall mean that agency, firm, provider organization, individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this agreement.
- (d) "**CONTRACTING OFFICER**" shall mean that individual authorized to execute this agreement on behalf of the Department.
- (e) "**DEPARTMENT**" shall mean the [REDACTED] of the state of Washington, any division, section, office, unit or other entity of the **DEPARTMENT** or any of the officers or other officials lawfully representing that **DEPARTMENT**.
- (f) "**PERSONAL INFORMATION**" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- (g) "**SUBCONTRACTOR**" shall mean one not an employee of the contractor, who is performing all or part of those services under this contract under a separate contract with the contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- (h) "**SUBRECIPIENT**" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- (i) A "**VENDOR**" is an entity that agrees to provide the amount and kind of services requested by the Department; provides services under the contract only to those beneficiaries individually determined to be eligible by the Department and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

Americans with Disabilities Act (ADA) Of 1990, Public Law 101-336, also referred to as the "ADA" 28 CFR PART 35

The contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

Assignment

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the contractor without prior written consent of the Department.

Certification Regarding Debarment, Suspension and Ineligibility

If federal funds are the basis for this contract, the contractor certifies that neither it nor its principals are presently debarred, declared ineligible or voluntarily excluded from participation in transactions by any federal department or agency.

Change in Status

In the event of substantive change in the legal status organizational structure or fiscal reporting responsibility of the contractor, contractor agrees to notify the Department of the change. Contractor shall provide notice as soon as practicable, but no later than thirty-days after such a change takes effect.

Changes and Modifications

The contracting officer may, at any time, by written notification to the contractor, and without notice to any known guarantor or surety, make changes within the general scope of the services to be performed under the contract. If the contractor agrees to such changes, a written contract amendment reflecting such change shall be executed by the parties. An equitable adjustment in cost or period of performance or both may be made if required by the change. Any claim for adjustment in price or period of performance must be received within thirty (30) days of the contractor's receipt of the change notice.

The contracting officer may, however, receive and act upon any such claim at any time prior to final payment under the contract at his/her discretion.

Failure to agree to any adjustment made under this section shall be an issue and may be reviewed as provided in the "Disputes" section of this agreement. Nothing in this section shall excuse the contractor from proceeding with the contract as changed.

Conflict of Interest

The Department may, in its sole discretion, by written notice to the contractor, terminate this contract if it finds, after due notice and examination by the contracting Officer, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the contractor in the procurement of or performance under, this contract.

In the event this contract is terminated as provided above, the Department shall be entitled to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor. The rights and remedies of the Department provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the contracting officer makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

Covenant Against Contingent Fees

The contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bonafide employees or bonafide established agent maintained by the contractor for the purpose of securing business. The Department shall have the right, in the event of breach of this clause by the contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fees.

Disputes**Option 1 - Dispute Resolution Board**

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, any party may request a dispute resolution board (DRB). A request for a DRB must be in writing, state the disputed issue(s), state the relative positions of the parties and be sent to all parties. Parties must provide a response within [] days. Once a party request a DRB, each party shall designate a representative. The representatives shall mutually select a third member (or an additional member for disputes involving more than two parties).

The DRB shall evaluate the facts, contract terms and applicable statutes and rules and make a determination by majority vote. The decision **(OPTION 1) [is binding on all parties] OR**

(OPTION 2) [shall/shall not be admissible in any succeeding judicial or quasi-judicial proceeding concerning the Contract. Parties agree that the DRB shall proceed with any action in a judicial or quasi-judicial tribunal.]

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

Option 2 - Dispute Hearing

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the **[Agency/Director of Agency or his or her designee]**.

1. The request for a dispute hearing must:
 - Be in writing;
 - State the disputed issues;
 - State the relative positions of the parties;
 - State the contractor's name, address, and contract number; and
 - Be mailed to the agent and the other party's (respondent's) contract manager within three working days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requestor's statement to both the agent and the requestor within five working days.
3. The agent shall review the written statements and reply in writing to both parties within ten working days. The agent may extend this period if necessary by notifying the parties.
4. The decision **[shall/shall not be]** admissible in any succeeding judicial or quasi-judicial proceeding.
5. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Option 3 - Mediation

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. The parties agree that mediation shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a dispute resolution board or arbitration.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

Governing Law

This contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.

NOTE: The County may change depending on the location of services.

Option 1 - Intermediate Version**Indemnification**

To the fullest extent permitted by law, contractor shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractors' obligations to indemnify, defend, and hold harmless includes any claim by contractors' agents, employees, representatives or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to contractor's or any subcontractor's performance or failure to perform the contract. Contractor's obligation to indemnify, defend, and hold harmless the state, shall not be eliminated or reduced by any actual or alleged concurrent negligence of state or its agents, agencies, employees and officials.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

Option 2 - Limited Version

To the fullest extent permitted by law, contractor shall indemnify, defend and hold harmless the state, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractors' obligations to indemnify, defend, and hold harmless includes any claim by contractors' agents, employees, representatives or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the state, only to the extent claim is caused in whole or in part by negligent acts or omissions of contractor.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

Option 3 - Mutual Version

Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement.

NOTE: *The Office of Financial Management, Risk Management Division, has been responsible for developing recommendations on risk management. They generally recommend using the intermediate language in most contracts. The limited language is more often used in public works contracts. However, it may also be used at a contractor's insistence, after the agency has evaluated its risks and determined if a limited indemnification and hold harmless clause is acceptable. The alternate indemnity clause makes each party responsible for its own actions.*

Independent Capacity

The parties intend that an independent contractor relationship will be created by this contract. The contractor and his or her employees or agents performing under this contract are not employees or agents of the Department. The contractor will not hold himself/herself out as nor claim to be an officer or employee of the Department or of the state of Washington by reason hereof, nor will the contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the contractor.

Industrial Insurance Coverage

The contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Department may collect from the contractor the full amount payable to the Industrial Insurance accident fund. The Department may:

- Deduct the amount owed by the contractor to the accident fund from the amount payable to the contractor by department under this contract; and
- Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

This provision does not waive any of L&I's rights to collect from the contractor.

NOTE: *In those instances where the contractor meets the definition of "worker" under RCW 51.08.180 and 51.08.195, the Department of Labor and Industries suggests the following alternative language:*

The agency acknowledges that the essence of the work specified in this contract constitutes personal labor, thus making the contractor a covered "worker" as defined in Title 51 RCW. The agency therefore agrees to provide industrial insurance coverage for the contractor during the course of employment under this contract, as may be required under Title 51 RCW.

Licensing and Accreditation Standards

The contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary in the performance of this contract.

Limitation of Authority

Only the contracting officer or his/her delegate by writing (delegation to be made prior to action) shall have the express, implied or apparent authority to alter, amend, modify or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the contracting officer.

Nondiscrimination

During the performance of this contract, the contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the contractor may be declared ineligible for further contracts with the Department. The contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

Overpayments and Assertion of Lien

In the event that the Department establishes overpayments or erroneous payments made to the contractor under this contract, the Department may secure repayment, plus interest, if any, through the filing of a lien against the contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the Department or by doing both.

Privacy

Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Department reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the Department. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The contractor agrees to indemnify and hold harmless the Department for any damages related to the contractor's unauthorized use of personal information.

For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

Records, Documents, and Reports

The contractor shall maintain all books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the Department, personnel duly authorized by the Department, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

Registration with Department of Revenue

The contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia WA 98504, and be responsible for payment of all taxes due on payments made under this contract.

Right of Inspection

The contractor shall provide right of access to its facilities to the Department or any of its officers at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract on behalf of the Department. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the contractor's business or work hereunder.

Rights in Data

Unless otherwise provided, data that originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the Department. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

Data that is delivered under the contract, but that does not originate there from, shall be transferred to the Department with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent that the contractor has a right to grant such a license.

The contractor shall exert all reasonable effort to advise the Department, at the time of delivery of data furnished under this agreement, of all known or potential invasions of privacy contained therein and of any portion of such document, which was not produced in the performance of this agreement.

The Department shall receive prompt written notice of each notice or claim or copyright infringement received by the contractor with respect to any data delivered under this agreement. The Department shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.

Safeguarding of Information

The contractor shall not use or disclose any:

- Personal Information gained by reason of this contract or:
- Information that may be classified as confidential for any purpose not directly connected with the administration of this contract except (1) with prior written consent of the Department or (2) as may be required by law. The contractor shall safeguard such information and shall return or certify destruction of the information upon contract expiration or termination.

Savings

In the event funding from state, federal or other sources is withdrawn, reduced or limited in any way after the effective date of this contract and prior to normal completion, the Department may terminate the contract under the "Termination for Convenience" clause, without advance notice, subject to renegotiation at the Department's discretion under those new funding limitations and conditions.

Severability

If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this contract, and to this end the provisions of this contract are declared to be severable.

Single Audit Act Requirements

If the contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133, the contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance Numbers. The contractor shall make the contractor's records available for review or audit by officials of the federal awarding agency, the General Accounting Office, the Department, and the Washington State Auditor's Office. The contractor shall incorporate OMB Circular A-133 audit requirements into all contracts between the contractor and its Subcontractors who are subrecipients. The contractor shall comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.

If the contractor expends \$500,000 or more in federal awards from any and/or all sources in any fiscal year ending after December 31, 2003, the contractor shall procure and pay for a single or program-specific audit for that year. Upon completion of each audit, the contractor shall submit to the contracting officer named in this contract the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable).

NOTE: *The single audit requirements above do not apply to "vendors" (as defined in this contract) who provide goods or services.*

Subcontracting

Neither the contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Department. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Termination for Convenience

Except as otherwise provided in this contract, the contracting officer may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. If this contract is so terminated, the Department shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

Termination for Default

The contracting officer may terminate this contract for default, in whole or in part, by written notice to the contractor if the Department has a reasonable basis to believe that the contractor has:

1. Failed to meet or maintain any requirement for contracting with the Department;
2. Failed to ensure the health or safety of any client for whom services are being provided under this contract;
3. Failed to perform under or otherwise breached, any term or condition of this contract; and/or
4. Violated any applicable law or regulation.

If it is later determined that the contractor was not in default, the termination shall be considered a termination for convenience.

Termination Procedure

Upon termination of this contract, the Department, in addition to any other rights provided in this contract, may require the contractor to deliver to the Department any property specifically produced or acquired for the performance of such part of this agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Department shall pay to the contractor the agreed upon price, if separately stated, for completed work and services accepted by the Department and the amount agreed upon by the contractor and the contracting officer for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services that are accepted by the Department, and (d) the protection and preservation of the property, unless the termination is for default, in which case the contracting officer shall determine the extent of the liability of the Department. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this agreement.

The Department may withhold from any amounts due the contractor for such completed work or services such sum as the contracting officer determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

After receipt of a notice of termination, and except as otherwise directed by the contracting officer, the contractor shall:

1. Stop work under the agreement on the date and to the extent specified in the notice;
2. Place no further orders or subcontracts for materials, services or facilities except as necessary to complete such portion of the work not terminated;
3. Assign to the Department, in the manner, at the times, and to the extent directed by the contracting officer, all of the rights, titles, and interest of the contractor under the orders and subcontracts in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the contracting officer to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the Department and deliver, in the manner, at the times and to the extent as directed by the contracting officer, any property which, if the contract had been completed, would have been required to be furnished to the Department;
6. Complete performance of such part of the work not terminated by the contracting officer; and,
7. Take such action as may be necessary or as the contracting officer may direct, for the protection and preservation of the property related to this agreement that is in the possession of the contractor and in which the Department has or may acquire an interest.

Treatment of Assets

1. Title to all property financed or furnished by the Department shall remain in the Department. Title to all property purchased by the contractor, for which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Department upon delivery of such property to the contractor. Title to other property, the cost of which is reimbursable to the contractor under the contract, shall pass to and vest in the Department upon (i) issuance for use of such property in the performance of this contract or (ii) commencement of use of such property in the performance of this contract or (iii) reimbursement of the cost thereof by the Department in whole or in part, whichever first occurs.
2. Any property of the Department furnished to the contractor shall, unless otherwise provided herein or approved by the Department, be used only for the performance of this contract.
3. The contractor shall be responsible for any loss or damage to property of the Department that results from the negligence of the contractor or that results from the failure on the part of the contractor to maintain and administer that property in accordance with sound management practices.
4. If any department property is lost, destroyed or damaged, the contractor shall notify the Department and shall take all reasonable steps to protect the property from further damage.
5. The contractor shall surrender to the Department all property of the Department prior to settlement upon completion, termination or cancellation of this agreement.
6. All reference to the contractor under this clause shall include contractor's employees, agents or subcontractors.

Waiver of Default

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by the contracting officer of the Department.